



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 53] नई दिल्ली, शुक्रवार, दिसम्बर 8, 2006 / अग्रहायण 17, 1928
No. 53] NEW DELHI, FRIDAY, DECEMBER 8, 2006 / AGRAHAYANA 17, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in the Lok Sabha on 8th December, 2006:—

BILL NO. 83 OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2006.
2. In article 85 of the Constitution, in clause (1), the following proviso shall be added at the end, namely:—

Short title.

Amendment
of article 85.

“Provided that each House of Parliament shall sit and transact business for a minimum of one hundred days in a calendar year.”.

STATEMENT OF OBJECTS AND REASONS

Over the years, it has been observed that the number of sittings of the two Houses of Parliament are decreasing. India is the largest democracy in the world and Parliament is the only institution where the problems of the people are raised and discussed thereby ensuring accountability of the Government to the people. If the trend of curtailing the number of sittings of the two Houses continues, it will have an adverse impact on our democracy.

After independence, during the initial years, Parliament used to meet for an average of hundred and twenty days in a calendar year. Thereafter, it came down to one hundred days a year, and at present, the number of sittings is less than one hundred. For instance, this year the Houses had only fifty-seven working days during the Budget and Monsoon Sessions and the Winter Session has only twenty working days. Thus during the current year, Parliament will have only seventy-seven sittings.

Thus in order to uphold our democratic values and to ensure effective representation and redressal of problems of the people, it is necessary that a reasonable minimum number of sittings of both the Houses are fixed. Taking into account all these facts, it is proposed to amend the Constitution to ensure that the Parliament sits for at least one hundred days in a calendar year.

Hence the Bill.

NEW DELHI;
November 6, 2006

GURUDAS DASGUPTA.

BILL NO. 70 OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2006.

Short title.

2. In article 124 of the Constitution,—

Amendment
of article
124.

(a) for clause (2), the following clause shall be substituted, namely:—

“(2) Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal on the recommendation of the Judicial Committee referred to in article 147A from amongst a panel of names suggested by the Committee and shall hold office until he attains the age of sixty-five years:

Provided that the Chief Justice of India shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose:

Provided further that—

(a) a Judge may, by writing under his hand addressed to the President, resign his office;

(b) a Judge may be removed from his office in the manner provided in clause (4).”

(b) for clause (4), the following clause shall be substituted namely:—

“(4) A Judge of the Supreme Court shall not be removed from his office except by an order of the President after an address by each House of Parliament supported by a majority of members present and voting and presented to the President in the same session for such removal on the ground of misbehaviour or incapacity.”

Insertion of
new Chapter
IVA.

3. In Part V of the Constitution, after Chapter IV, the following Chapter shall be inserted, namely:—

“CHAPTER IVA—JUDICIAL COMMITTEE

Constitution
of Judicial
Committee
and its
functions.

147A. (1) The President shall by order constitute a Committee, referred to in this Constitution as the Judicial Committee.

(2) The Judicial Committee shall consist of the following:—

(a) The Chief Justice of India, who shall be the Chairperson of the Committee;

(b) four other Judges of the Supreme Court next to the Chief Justice of India in seniority;

(3) It shall be the duty of the Committee—

(a) to prepare a panel for appointment of Judges of the Supreme Court and Chief Justices and other Judges of the High Courts;

(b) to draw up a code of ethics for Judges of the Supreme Court and Chief Justices and other Judges of the High Courts; and

(c) to inquire into, *suo-motu* or on a complaint or reference, cases of misconduct or such deviant behaviour of a Judge other than those calling for his removal and advise the President of India appropriately after such inquiry.

(4) No person, whose name is not recommended by the Committee in the panel for appointment as a Judge, shall be so appointed by the President.

(5) The Committee shall have the power to regulate its own procedure including the procedure to be followed under sub-clause (c) of clause 3.

Amendment
of article 217.

4. In article 217 of the Constitution, in clause (1), for the words “after consultation with the Chief Justice of India, the Governor of the State, and, in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court”, the words “on the recommendation of the Judicial Committee referred to in article 147A from amongst a panel of names suggested by the Committee” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Articles 124(2) and 217(1) of the Constitution, in very clear terms, lay down that the judiciary has an integral role to play in the appointment of the judges in the higher judiciary. These articles provide for "consultation" with the head of judiciary or any other member of the judiciary in matters related to appointment of judges.

The ambiguity that surrounded the "kind of consultation" with judiciary has been done away with by the constant evolution of case law on this front. The Supreme Court, in its several judgments, has very clearly laid down the role of the judiciary in the appointment of the judges in the higher judiciary. The most important reason that has been advanced for giving a predominant role to judiciary in the matters relating to appointment of judges in higher judiciary is to ensure that the independence of judiciary is protected.

The system of having a collegium to look into the matters related to appointment has not yielded the kind of results that were expected. The vacancies still remain unfilled as before. Even if a vacancy gets filled, the whole process takes a lot of time. Therefore, the objective of streamlining the process of appointment has not been achieved to the fullest possible extent. All this has created the need of having a proper institutionalised structure for dealing with matters relating to the appointment of judges in higher judiciary.

The cases of judicial misconduct and deviant actions by judges are on the rise. To make judges accountable is a growing demand, as the judicial propriety and ethics are equally important to have a buoyant and independent judicial system.

The chances of removal of a judge in the higher judiciary through impeachment process are very remote because of cumbersome procedure of impeachment. There is every chance that Parliament may absolve the judge of the charges, even if he is indicted in the inquiry report, as happened in one case in the past. It is, therefore, necessary to amend the provisions of special majority required to impeach a judge in higher judiciary and to provide for requirement of simple majority for the impeachment of a Judge.

The Bill seeks to amend the Constitution with a view to constitute a 'Judicial Committee' to regulate appointment of judges in higher judiciary and to draw a code of conduct for judges and inquire into cases of misconduct or deviant actions of judges, other than those punishable with removal and advise the President of India after such inquiry. The Bill seeks to achieve the above objective.

Hence this Bill.

NEW DELHI;
July 25, 2006

C. K. CHANDRAPPA.

BILL NO. 71 OF 2006

A Bill to provide for measures for the welfare of cinema artists and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Cinema Artists Welfare Act, 2006.
- (2) It extends to the whole of India.
- (3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “artist” means any person engaged in cinema industry and performing either as an actor, dancer, singer, producer, photographer, editor or distributor of films or any work connected with the production, editing and distribution of films and includes casual workers employed from time to time;

(b) “cinema” means a feature film or a documentary or a short film;

(c) "Fund" means the Cinema Artists Welfare Fund constituted under section 3 of the Act;

(d) "prescribed" means prescribed by rules made under the Act.

3. (1) The Central Government shall set up a fund to be known as the Cinema Artists Welfare Fund.

Cinema
Artists
Welfare Fund.

(2) The Fund shall consist of contributions made by Central Government, film producers and donations received from individuals or organisations.

(3) The Fund shall be administered by a Board consisting of—

(i) the Minister of Information and Broadcasting as the *ex-officio* Chairman;

(ii) two representatives of film producers, as members to be nominated in such manner as may be prescribed; and

(iii) two representatives of cinema artists as members to be nominated in such manner as may be prescribed.

(4) The details regarding conditions of service and terms of appointment of members of the Board shall be such as may be prescribed by rules to be made under this Act.

(5) The Cinema Artists Welfare Fund shall be utilized for the following purposes:

(i) payment of compensation in case of death or accident of an artist while performing the job;

(ii) payment of premium of life insurance of artists;

(iii) payment of old age pension after an artist has attained the age of sixty years and is not gainfully employed;

(iv) payment of disability assistance in case any artist is disabled due to any reason while working in cinema industry;

(v) free health care facilities for the artists and their family members; and

(vi) housing facilities to the artists at subsidized rate.

4. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to
make rules.

STATEMENT OF OBJECTS AND REASONS

Artists engaged in film industry fall in the category of unorganized workers and face a lot of problems. They entertain the people but a great deal of personal risk is involved in their work. Accidents occur frequently during shooting of the films and as a result many artists sustain injuries while performing. They get a meagre amount as compensation for the loss or injury suffered by them. They do not have proper facilities like health care, education for their children, etc.

Today, the cinema industry generates considerable revenue for the country but nothing is being done by the Government for the welfare of persons engaged in this profession. Therefore, it becomes necessary to provide certain measures for welfare of the persons engaged in the cinema industry.

The Bill seeks to provide for setting up of the Cinema Workers' Welfare Fund providing for insurance cover, educational facilities for the children of cinema workers, old age pension, free health care and housing facilities to the workers engaged in the cinema industry.

Hence this Bill.

NEW DELHI;
July 25, 2006

JAYAPRADA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up the Cinema Artists Welfare Fund by the Central Government for the welfare of workers engaged in cinema industry. The Bill, therefore, if enacted, is likely to involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees five hundred crore per annum.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 67 OF 2006

A Bill to provide for the setting up of a National Commission to protect the interests of small and marginal traders and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the National Commission for Small and Marginal Traders Act, 2006.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(i) “prescribed” means prescribed by rules made under the Act; and

(ii) “small and marginal trader” includes any person running a small business like a grocery shop, pan shop, barber shop or earning his livelihood through selling flowers, toys, children's dresses, handicrafts, cold drinks, packaged drinking water,

fruits and vegetables, ice-cream, magazines and newspapers or general utilities, household items or any other item which may be prescribed and whether business is carried from a permanent structure or not and where the total capital invested in running the business does not exceed rupees twenty-five thousand.

National
Commission
for Small and
Marginal
Traders.

3. (1) The Central Government shall constitute a National Commission for Small and Marginal Traders (hereinafter to be referred to as the National Commission).

(2) The National Commission shall consist of—

- (i) a Chairman to be nominated by the Central Government;**
- (ii) The Secretary, Union Ministry of Labour and Employment who shall be an ex-officio member of the Commission;**
- (iii) one representative of the Small and Marginal traders; and**
- (iv) two other members, to be nominated by the Central Government.**

(3) The terms and conditions of service, salaries and allowances of the Chairman and other members shall be such as may be prescribed.

State
Commission
for small and
marginal
traders.

4. (1) Every State Government shall set up a State Commission for Small and Marginal Traders (hereinafter to be referred to as the State Commission).

(2) Every State Commission shall consist of—

- (i) a Chairman to be appointed by the State Government; and**
- (ii) four other members to be nominated by the State Governments.**

(3) The terms and conditions of service, salaries and allowances of the Chairman and other members shall be such as may be determined by the State Government.

Functions of
the National
Commission.

5. The National Commission shall perform the following functions:—

- (i) to formulate guidelines for payment of old age pension to small and marginal traders to be paid after they attain the age of sixty years and not engaged in any gainful activity;**
- (ii) to frame a scheme for constructing permanent structure for traders running business from temporary structures or pavements;**
- (iii) to make recommendation to the Central Government regarding requirement of funds for implementation of the provisions of the Act;**
- (iv) to release funds to the State Commission;**
- (v) to take up with commercial banks the modalities for extending loans to small and marginal traders;**
- (vi) to formulate an insurance scheme for small and marginal traders; and**
- (vii) such other functions as may be assigned to it by the Central Government.**

Functions of
the State
Commission.

6. (1) Every State Commission shall conduct a census of small and marginal traders within its jurisdiction;

(2) The census conducted under sub-section (1) shall provide information relating to the type of business carried on, facilities, capital invested and required, plan for improvement and such other information as may be prescribed; and

(3) The State Commission shall send a detailed annual report to the National Commission.

Central
Government
to release
funds.

7. The Central Government shall, after due appropriation by Parliament, release the necessary funds to the National Commission.

8. It shall be the duty of the State Commission to implement the policies and schemes framed by the National Commission.

Duty of the
State
Commission
to
implement
the policies.

9. This Act shall be in addition to and not in derogation of any other law, for the time being in force, regarding welfare of Small and Marginal Traders.

Act not to
be in
derogation
of any other
law.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to
make rules.

STATEMENT OF OBJECTS AND REASONS

There are innumerable small traders and businessmen spread throughout the country. They are not wealthy and sometimes their total investment does not exceed twenty-five thousand rupees. No bank is likely to give loans to them as they usually have nothing to offer as guarantee. In their old age, there is no security and there is no insurance cover for them.

It has been observed that many of them carry on business from temporary structure. They do not even have permanent structure to sell their wares.

Therefore, in order to provide security to them in their old age and assist them in their business, it is proposed to set up a National Commission to protect their interests.

Hence the Bill.

NEW DELHI;
July 25, 2006

JAYAPRADA

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to provide for setting up of a National Commission for Small and Marginal Traders. Clause 4 provides for the setting up of State Commission by every State Government. Clause 6 provides that National Commission shall release funds to the State Commissions to implement the provisions of this Bill. Clause 7 provides that the Central Government shall release funds to the National Commission after due appropriation.

The expenditure in respect of State Commissions shall be borne out of the Consolidated Funds of the respective States. However, the Central Government may have to provide funds to the State Governments for carrying out the provisions of the Bill.

The Bill, therefore, if enacted, is likely to involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees one thousand crore is likely to be incurred.

A non-recurring expenditure of about rupees ten thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 64 OF 2006

A Bill to provide for measures for welfare of beedi workers and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Beedi Workers Welfare Act, 2006.
- (2) It extends to the whole of India.
- (3) It shall come into force at once.

Short title,
extent and
commencement.

2. In this Act, unless the context otherwise requires,—

Definitions.

- (i) “appropriate Government” means a State Government or the Central Government, as the case may be;
- (ii) “beedi” means beedi or cigar rolled out of tobacco leaves;
- (iii) “prescribed” means prescribed by rules made under the Act; and
- (iv) “workers” means any person involved in rolling of tobacco leaves for making beedis or cigars.

Beedi
Workers
Welfare Fund.

3. (1) The Central Government shall set up a fund to be known as Beedi Workers Welfare Fund.

(2) The Fund shall consist of contributions from Central Government, the State Governments and owners of beedi factories in such ratio as may be prescribed.

(3) The Fund shall be administered by a Board, consisting of—

(a) one Chairman to be appointed by the Central Government;

(b) one representative of each State Government where beedi making is a major occupation;

(c) two representatives of workers to be nominated in such manner as may be prescribed; and

(d) one representative of owners of beedi factories.

Functions of
the Board.

4. (1) The Board shall determine the purposes for which the Fund shall be utilized.

(2) Notwithstanding anything in sub-section (1), the Fund shall be utilized for the following purposes:—

(i) free education, including higher education, for the children of workers;

(ii) payment of old age pension after a worker has attained the age of sixty years or is unable to perform his work on account of incapacity, whichever occurring earlier;

(iii) free housing facilities for beedi workers;

(iv) payment of compensation in case of death or accident or physical disability due to occupational reasons; and

(v) payment of disability assistance in case any worker is disabled due to any reason while employed in any beedi factory.

Central
Government
to set up
hospitals.

5. (1) The Central Government shall set up super speciality hospitals at different locations in the country to cater to beedi workers and their families.

(2) The appropriate Government shall make available land free of cost to the Central Government for the purposes of sub-section (1).

(3) Every worker and his family shall be entitled to free treatment in the hospitals set up under sub-section (1).

Workers to be
entitled for
assured
minimum
wage.
Penalty.

6. Every worker shall be entitled to such assured minimum wage as may be fixed by the appropriate Government, irrespective of the number of beedi rolled by him.

7. If any employer does not comply with the provisions of sections 3 or 6, he shall be punished with a fine which may extend to rupees fifty thousand.

Power to
make rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

The beedi workers in the country face a lot of problems. They are not given minimum wages. They are not provided with adequate and proper health care system or housing facilities. They live in pathetic condition. The rolling of beedis affects their health very badly and they become prone to lung diseases. Since they are not in a position to afford education for their children, their children remain uneducated and are forced to be employed in rolling beedis. After retirement or physical incapacity of the workers, they are left to fend for themselves and there is no social security for them.

In view of this, it is proposed to provide for certain welfare measures for beedi workers.

Hence this Bill.

NEW DELHI;
July 25, 2006

JAYAPRADA.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of a Beedi Workers Welfare Fund. Clause 5 provides for setting up of super speciality hospitals for beedi workers. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees five thousand crore per annum.

A non-recurring expenditure of about rupees one thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 82 OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2006.
- (2) It shall come into force at once.

Amendment
of article 312.

2. In article 312 of the Constitution:—

(a) in clause (1) for the words, "common to the Union and the States," the words, "for the Union," shall be substituted.

(b) clause (2) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The present structure of bureaucracy at the Union and State level is a legacy of the colonial era. At that time the administration was highly centralised and the officers appointed by the Central Government were given top jobs in the States with a view to maximize revenue collection and keep a tab on the happenings within the provinces. We chose to continue with this system even after independence, principally because continuity in administration was considered to be necessary for a country which had just emerged from long years of foreign rule. It was also felt that retaining such services would help preserve unity and integrity of the country. But now, the nature of administration has changed from revenue collection to welfare of the citizens. When we are moving towards decentralized Government rather than centralized Government, particularly after the seventy-third and seventy-fourth amendment of the Constitution taking democracy to the grass root level and when federalism is the order of the day, we need to review the necessity of having All India Services, in particular, the Indian Administrative Service and the Indian Police Service. In fact the very idea of officers appointed by the Union Government taking senior positions in States runs contrary to the federal structure of our nation.

The State Governments should have the power to appoint and regulate the conditions of service of all officers serving under them. It will not only allow appointment of such officers who are better conversant with the ground realities existing in a State and so, in a better position to formulate and implement development strategies, but the officers can also be better groomed to the needs of the State. All over world, the focus is now shifting towards specialist administrators, i.e., administrators who are specialists in their respective area of operation, as a means to ensure faster pace of development. This purpose would also be served if the States are given greater autonomy in the appointment of their officers.

Therefore, an amendment is proposed in the Constitution to ensure that State Governments are able to appoint officers at all levels within the State.

NEW DELHI;
July 28, 2006

L. RAJAGOPAL

BILL NO. 77 OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows :—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2006.

Amendment of
article 370.

2. In article 370 of the Constitution:—

(a) in clause (1),—

(i) sub-clause (a) shall be omitted;

(ii) in sub-clause (b), the Explanation shall be omitted;

(b) clause (2) shall be omitted;

(c) for clause (3), the following clause shall be substituted, namely:—

“(3) The provisions of this article, unless made inoperative sooner by the President, shall cease to have effect on the expiration of a period of sixty years from the commencement of this Constitution.”.

STATEMENT OF OBJECTS AND REASONS

Article 370 was incorporated in the Constitution as a temporary provision keeping in view the special circumstances prevailing in the State of Jammu and Kashmir at the time of its accession. It was included in order to define the political and constitutional structure of the State. Therefore, the status of this State differs from the other States in many respects due to the existence of the provisions of article 370 even though fifty-six years have passed since Constitution came into force. This has happened inspite of the fact that the said provisions are clearly termed in the Constitution itself as temporary in nature. The situation which existed at the time of incorporation of the special provisions in the Constitution does not exist today. The people of Kashmir have been participating regularly in elections to the Parliament and State Legislature, which has proved that Jammu and Kashmir is equally placed with other States of the country. Article 370 has, therefore, lost its relevance today. Moreover, the application of a temporary provision for almost 57 years without any rationale does not make sense. In fact, due to this article, the economy of the State has lagged behind as private sector is not interested in investing in the State on account of its unique status. The arrangements under this article have led to step-motherly treatment of the people of the State. What is more serious is that this provision gives countries that are not friendly to us, an opportunity to raise the Kashmir issue in various international fora.

Therefore, in the interest of the people of the State, this article should cease to operate so that the State enjoys the fruits of progress of the country in all fields, as enjoyed by the people of other States and would also develop a feeling of brotherhood with the rest of the country.

Hence this Bill.

NEW DELHI;
August 23, 2006

BACHI SINGH RAWAT.

BILL NO. 79 OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows :—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2006.

Amendment of
article 102.

2. In article 102 of the Constitution, in clause (1), in sub-clause (a), the following proviso shall be added at the end, namely :—

“Provided that no law made under this sub-clause shall be given retrospective effect.”

Amendment of
article 191.

3. In article 191 of the Constitution, in clause (1), in sub-clause (a), the following proviso shall be added at the end, namely :—

“Provided that no law made under this sub-clause shall be given retrospective effect.”

STATEMENT OF OBJECTS AND REASONS

The recent controversy regarding 'office of profit' has generated much discussion all over the country. One of the major points of the controversy it generated, had much to do with the fact that the Bill was passed with retrospective effect. The 'soundness and propriety of law in making the applicability of the amendment retrospectively' was also one of the moot points raised by the President when the Bill was sent for reconsideration of the Parliament. It is one of the canons of law that no law should be passed with retrospective effect. Retrospective laws are, in general, considered unfair.

Passing Bills with retrospective effect gives an impression that it is being done with an ulterior motive. There is a perception that it is being done with the aim of legitimizing something that is clearly not. Even from the moral view-point, this should not be done. Therefore, amendment is proposed to be made in both articles 102 and 191 so that no law relating to disqualification of those holding 'office of profit' is passed in either Parliament or State Legislatures with retrospective effect.

Hence this Bill.

NEW DELHI;
August 28, 2006

BACHI SINGH RAWAT.

BILL NO. 80 OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2006.

Amendment of
article 51A.

2. In article 51A of the Constitution, after clause (k), the following clause shall be added, namely:—

“(1) to cast vote at elections to the House of the People, Legislative Assemblies of States and local bodies.”.

STATEMENT OF OBJECTS AND REASONS

Democracy is considered to be the best of all types of governance and voting is an instrument to ensure democracy. "Majority is always right" is the guiding principle of this form of governance. Every democratic system is based on the participation of the citizens, who are the real soul of democracy. They give legitimacy to this system. Therefore, high turnout during elections is desirable. India is the largest democracy in the world. However, it has been observed during general elections in the recent past that the number of actual voters casting votes is far less than the eligible voters. It is a disturbing trend and is an obstacle in establishing sound democratic system in the country. There have been efforts in the past to increase voter turnout and encourage voting at elections but desired results have not been achieved.

It is, therefore, necessary that a duty is cast upon every citizen to exercise his franchise during elections. The Bill seeks to amend the Constitution with a view to make it fundamental duty of every eligible voter to cast vote at elections to the House of the People, Legislative Assemblies of States and local bodies.

Hence this Bill.

NEW DELHI;
July 25, 2006

BACHI SINGH RAWAT

BILL NO. 85 OF 2006

A Bill further to amend the Indian Medical Council Act, 1956.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title, and
commence-
ment.

1. (1) This Act may be called the Indian Medical Council (Amendment) Act, 2006.

(2) It shall come into force at once.

Amendment
of section 3.

2. In section 3 of the Indian Medical Council Act, 1956, (hereinafter referred to as the principal Act), in sub-section (1), after clause (d), the following clause shall be inserted, namely:—

102 of 1956.

"(da) three members of Parliament of which two shall be from Lok Sabha and one member from Rajya Sabha, to be elected by the respective House."

3. In section 5 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment
of section 5.

"(1). No person shall be eligible for nomination or election under clauses (a) and (da) of sub-section (1) of section 3 unless he possesses any of the medical qualifications included in the First and Second Schedules:

Provided that no person shall be eligible for nomination under clause (a) of sub-section (1) of section 3 unless he resides in the State concerned, and, where a State Medical Register is maintained in that State, is enrolled on that register."

4. In section 7 of the principal Act, in sub-section (3), after the words, "State Medical Register concerned", the following shall be added:—

Amendment of
section 7.

", or in the case of a member elected under clause (da) of that sub-section, if he ceases to be a member of the House of Parliament by which he was so elected."

5. In section 10 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment
of section 10.

"(1) The Executive Committee, hereinafter referred to as the Committee, shall consist of the President and the Vice-President who shall be members *ex officio*, three members elected under clause (da) of sub-section (1) of section 3 and not more than nine other members who shall be elected by the Council from among its members.

STATEMENT OF OBJECTS AND REASONS

The Indian Medical Council Act, 1956 (IMC) provides for constitution of the Medical Council of India (MCI), which includes elected and nominated representatives. The Medical Council of India is not only a professional body for the registration of medical graduates but also the regulatory body for the professional conduct of medical practitioners. Medical Council of India provides guidelines to the medical practitioners with regard to their duties and responsibilities. Thus the Medical Council of India has the responsibility of tailoring the medical education and training to the needs of the nation. Representation of Members of Parliament in the council will help in guiding the Medical Council with regard to achieving its social obligations even more effectively.

There are other institutions such as the All India Council of Technical Education (AICTE) and the Nursing Council where provisions have been made for including Members of Parliament. The Joint Committee on the Indian Medical Council (Amendment) Bill, 1987 recommended in its report that similar provisions be made for the Medical Council of India as well. But this recommendation has not been brought into effect so far.

Therefore, it is proposed to amend the Indian Medical Council Act, 1956 to provide for representation of Members of Parliament in the Medical Council.

The Bill seeks to achieve the above objectives.

NEW DELHI;
November 7, 2006

R. SENTHIL

BILL NO. 84 OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2006.

Short title.

2. In article 15 of the Constitution, after clause (5), the following clause shall be added, namely:—

Amendment
of article 15.

" (6) In making any special provisions for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes, the State shall not apply or prescribe any criteria including economic criteria notwithstanding any judgement of any court or authority to the contrary."

STATEMENT OF OBJECTS AND REASONS

Article 15 (4) of the Constitution enables the State to make special provisions for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes. Accordingly, provision for reservation in jobs and educational institutions has been made.

The policy of reservation strengthens the concept of equality enshrined in the Constitution by promoting social equality in our country. The socially and educationally backward classes of citizens, the Scheduled Castes and the Scheduled Tribes were marginalized and oppressed for centuries as a result of caste system prevalent in the country. Even after independence they have not been able to attain the level of economical and educational advancement enjoyed by the upper caste. It must be realized that discrimination on the basis of caste threatens the very fabric of our nation and therefore, safeguards for reservation which is a tool for promoting social equity should find a place in our Constitution.

Even after sixty years of affirmative action, the caste based discrimination and caste based distinction exist on a large scale in our society. In its present form, it has not succeeded in building capabilities and offering opportunities to those it has sought to benefit. To make matters worse, efforts are being made to dilute the reservation system by introducing economic criteria and concept of 'creamy layer'.

It must be remembered that introducing economic or any criteria other than social and educational backwardness will only nullify the object of this affirmative action. The economic criterion is valid only in casteless societies. Since essence of discrimination and marginalization in the Indian society is based on caste, exclusion of backward classes from getting benefits under reservation on the basis of economic criteria or in the form of 'creamy layer' or in any other form would further marginalize the citizens belonging to these classes.

Hence this Bill.

NEW DELHI;
November 8, 2006

R. SENTHIL.

BILL NO. 86 OF 2006

A Bill to provide for welfare measures for women and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Women Welfare Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Short title,
extent and
commencement.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) “destitute woman” includes a woman having been deserted by her husband or relatives, including children, or a widow or a divorced woman whether having minor children or not and has no source of income or livelihood;

(c) "employer" means any person by whatever name called, who is incharge or has absolute control over the affairs of any establishment including any factory, company or shop; and

(d) "prescribed" means prescribed by rules made under this Act.

Women
Welfare Fund.

3. (1) The Central Government shall set up a fund to be known as the Women Welfare Fund.

(2) The Fund shall consist of contributions to be made by the Central Government and the State Governments in such ratio as may be prescribed.

(3) The Fund shall be utilized for:—

(i) setting up of homes for destitute women where they will be provided boarding and lodging facilities free of cost;

(ii) providing educational facilities free of cost to minor children of destitute women;

(iii) providing vocational/self-employment training to women;

(iv) providing free health care facilities to women;

(v) payment of old age pension to women who have attained the age of fifty-five years and have no source of livelihood;

(vi) payment of sustenance allowance to destitute women till such time as they are gainfully employed; and

(vii) such other purposes as the appropriate Government may deem fit.

Facilities for
women at
their work
place.

4. Every employer shall provide such facilities to the women workers at the work place as may be prescribed within a period of six months from the date of coming into force of this Act.

Thirty-three
percent posts
to be reserved
for women.

5. Notwithstanding anything contained in any other law, rule or order of any court of law or otherwise for the time being in force, thirty-three percent of posts shall be reserved for women in all the services, public sector enterprises and establishments under the Central Government.

Provisions of
Act not to be
in derogation
of any other
law for the
time being in
force.

6. The provisions of this Act or rules made thereunder shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Power to make
rules.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Women constitute fifty percent population of our country. But even after sixty years of independence they remain underprivileged. Regardless of their caste or religion, women are backward both socially and economically. In spite of a number of welfare schemes formulated for their benefit, no real difference has been made in their lives. In our country, reservation is extended to certain educationally and socially backward classes but it is denied to women who are backward in all respects. Reservation will be a powerful tool of empowerment. Therefore, it should be provided for women also.

Among women the condition of women who are destitute is even more pathetic. In the absence of any intervention from the State, they are forced to live a miserable life full of poverty and exploitation. The Bill proposes to set up a fund for their welfare.

The condition of working women is no different. They work in sub-standard conditions and are often subjected to harassment from their colleagues and superiors. In view of the above, legislation is needed to protect them at their workplace and to provide them certain basic facilities.

Hence this Bill.

NEW DELHI;
November 8, 2006

ARCHANA NAYAK.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of a Women Welfare Fund to which the Central Government will also contribute. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees ten thousand crore per annum.

A non-recurring expenditure of about rupees five thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative powers is of a normal character.

BILL NO. 87 OF 2006

A Bill to provide for old age pension to farmers and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Farmers (Old Age Pension) Act, 2006.
- (2) It extends to the whole of India.
- (3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—
 - (i) “appropriate Government” means a State Government or Union territory administration, as the case may be;
 - (ii) ‘farmer’ means a small or a marginal farmer who has attained the age of sixty years and has no income from any source or is living below poverty line;
 - (iii) ‘fund’ means the Farmers’ Old Age Pension Fund set up under Section 3; and
 - (iv) ‘prescribed’ means prescribed by rules made under the Act.

3. (1) The Central Government shall constitute a fund to be known as the Farmers Old Age Pension Fund.

Constitution
of the
Farmers Old
Age Pension
Fund.

(2) The Central Government and State Governments shall make contributions to the fund in such ratio as may be prescribed.

4. (1) The appropriate Government shall maintain a register of farmers with all necessary details in such manner as may be prescribed.

Maintenance
of register of
farmers.

(2) The appropriate Government shall forward the details of farmers registered under sub-section (1) to the Central Government from time to time.

5. The Central Government shall release funds to the appropriate Government on the basis of the information received under section 4.

Release of
fund to the
appropriate
Government.

6. (1) Every farmer registered with appropriate Government shall be entitled to a pension of rupees three thousand per month.

Entitlement
of pension.

(2) The pension so fixed shall be reviewed periodically.

(3) The pension shall be paid to a farmer through a nationalized bank.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

Powers to
make rules.

STATEMENT OF OBJECTS AND REASONS

Agriculture is the mainstay of the livelihood of our rural population and it contributes immensely towards the growth of our national economy. But the living conditions of majority of small and marginal farmers have not improved over the years. They live in abject poverty. When they attain old age, their suffering increases as they are not in a position to do any work. The large chunk of these farmers own only a few acres of land and since the yield depends upon vagaries of weather, they always live hand to mouth. Therefore, it is necessary to provide some social security in the form of old age pension to the farmers.

Hence this Bill.

NEW DELHI;
November 8, 2006

ARCHANA NAYAK.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of a fund to be known as the Farmers Old Age Pension Fund to pay old age pension to the small and marginal farmers to which the Central Government shall contribute in such ratio as may be prescribed. Clause 5 provides that Central Government shall release fund to the State Governments required for payment of old age pension to farmers. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India.

It is likely to involve a recurring expenditure of about rupees five thousand crore per annum. A non-recurring expenditure of about rupees one hundred crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 88 OF 2006

A Bill to put a ban on bogus advertisements and publicity of products and services and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Ban on Bogus Advertisements Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Short title,
extent and
commencement.

2. In this Act, unless the context otherwise requires:—

Definitions.

(a) “advertisement” means publicity of any goods or service, through print media or broadcast/telecast through radio or television network or internet or through telephone network or through any other form of communication to which general public have access;

(b) “bogus advertisement” means any advertisement which—

(i) conceals full information about a product or a service;

(ii) gives false and misleading information;

(iii) exaggerates the quality of a product whereas the actual quality of the product is inferior;

(iv) gives wrong information about the quality of product and guarantee/warranty attached to it;

(v) conceals or misrepresents the terms and conditions of the offer; and

(vi) omits or commits any such thing which amounts to misleading public.

(c) "electronic or print media" means radio, television network or newspapers or computer or any other form of communication to which general public have access;

(d) "establishment" means any establishment dealing in manufacturing or trading in products, either wholesale or retail, and includes a financial or banking company and also includes any establishment which offers services to public for a fee;

(e) "prescribed" means prescribed by rules made under the Act;

(f) "product" means and includes any product, whether industrial or consumer or any goods which may be used for human consumption; and

(g) "services" includes services in connection with transport, communication, banking, tourism, housing, information technology, insurance or financial services including stock exchange or medical services or such other service which may be used by general public.

Ban on bogus advertisement.

3. No person or organisation or establishment shall indulge in any bogus advertisement or publicity.

Punishment for bogus advertisement.

4. If any person or organisation or establishment indulges in bogus advertisement or publicity in the electronic or print media about a product or service, the person-in-charge of such organisation or establishment shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to rupees five lakh, or with both.

Penalty for publishing or telecast of bogus advertisement.

5. If any electronic or print media produces, telecasts, broadcasts or publishes any advertisement knowingly that the said advertisement is bogus, the person in-charge of such media shall be punished with fine which may extend to rupees two lakh:

Provided that the provisions of this section shall not apply to an electronic or print media if it is established that the advertisement has been broadcast or telecast or printed in good faith.

Act to be in addition to and not in derogation of any other law.

6. The provision of this Act, or the rules made thereunder shall be in addition to, and not in derogation of any other law for the time being in force or any rule, order or any instruction issued thereunder, enacted for the prohibition and regulation of bogus advertisements or publicity.

Power to make rules.

7. The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

With the growth of electronic and print media, commercial advertisements have increased. Advertisements are necessary for increasing the sale of any product or service in the market. However, due to cut throat competition for selling their products or services, several organizations indulge in practice of bogus advertisements or unfair trade practices. Common people believe and fall prey to these bogus advertisements. Many organizations never reveal a complete and true picture of the product or services offered by them.

If this trend goes unchecked, the innocent consumers will continue to be cheated and suffer monetary loss. It is high time that steps are taken to prevent such bogus advertisements and publicity.

Hence the Bill.

NEW DELHI,
November 8, 2006

ARCHANA NAYAK.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

P.D.T. ACHARY,
Secretary-General.